

## **REMARKS**

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 3, 6-21, and 23-57 are pending in the present application. No claims are amended, cancelled, or added. No new matter is added.

### **§103(A) REJECTIONS**

The Office Action appears to reject Claims 3, 6-21, and 23-57 under 35 U.S.C. §103(a) as unpatentable over *Borella et al.* (U.S. Patent No. 6,731,642, "*Borella*") in view of *Hellwarth et al.* (U.S. Patent No. 4,935,956, "*Hellwarth*"). For at least the reasons discussed below, Applicant respectfully requests these rejections be withdrawn.

As a preliminary matter, it is respectfully submitted that the Office Action **again** fails to clearly communicate findings and conclusions of obviousness as required by the MPEP. As emphasized by the MPEP, "It is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply." MPEP §706.02(j).

In a first example, despite Applicant's request for additional clarity, it remains unclear how the Examiner applies *Borella* to teach or suggest the features recited, for example, in steps (a) through (h) of Claim 9. Although the Office Action at page 3 describes the various functions of components in *Borella*, the application of Applicant's claimed steps to description within *Borella* remains confusing. In a second example, although it appears that the Office Action finds Bella [sic] (*Borella*) to be silent with regard to at least Applicant's steps generally related to a time out or repeatedly sending messages, the Office Action then applies references "**Yen**,

**Harris, and Go**” to *Borella*. See Office Action at page 3 (emphasis added). Although it appears that *Hellwarth* was intended to be applied as the secondary reference in combination with *Borella* to reject Applicant’s independent Claims, the Examiner’s citation to *Yen, Harris, and Go* makes the actual basis of the obviousness rejections uncertain.

As shown by the above examples, the inconsistent and confusing rejection of Applicant’s Claims under 35 U.S.C. §103(a) based on unclear combinations of references does not give Applicant a fair opportunity to reply to the alleged rejections. Accordingly, it is respectfully requested **again** that the rejections be substantially clarified to conform to the standards set forth in the MPEP or withdrawn entirely. For at least the additional reasons below, Applicant respectfully requests that the obviousness rejections be withdrawn.

Based on Applicant’s understanding of the outstanding Office Action, the obviousness rejections are still improper as the Office Action fails to establish a *prima facie* case of obviousness and improperly applies nonanalogous art. The basic requirements of a *prima facie* case of obviousness include:

- There must be some suggestion or motivation to combine the reference teachings.
- The references when combined must teach or suggest all features recited in the claims.

MPEP 2143.

It is respectfully submitted that neither of these requirements are satisfied. First, there is no suggestion or motivation to combine at least *Borella* and the nonanalogous art reference, *Hellwarth*. Second, even if combined, *Borella* and *Hellwarth* still fail to teach all features recited in Applicant’s independent Claims 9-10, 16-17, and 24-25.

***No Suggestion or Motivation to Combine***

In *KSR v. Teleflex*, the Supreme Court emphasized that the analysis of suggestion or motivation to combine certain references **should be made explicit** by some articulated reasoning with some rational underpinning. See *KSR Int'l Co. v. Teleflex Inc.*, No. 04-1350, slip op. at 14 (April 30, 2007) (emphasis added). The Office Action asserts that one of ordinary skill in the art at the time of Applicant's invention would have been motivated to implement the combined teachings of "Yen, Harris, and Go with the teachings of *Borella*." See Office Action at 3 (emphasis added). In addition to leaving unclear how the disparate teachings of *Borella* and *Hellwarth* might be combined, it is respectfully submitted that this assertion regarding combining references *Yen, Harris, and Go* wholly fails to satisfy the explicit reasoning required by the Supreme Court in *KSR* to support an obviousness rejection based on *Borella* and *Hellwarth*. Thus, without any explicit analysis of motivation related to *Borella* and *Hellwarth*, it is respectfully submitted that the obviousness rejections are improper.

Aside from the lack of any reasoned statement regarding possible motivation to combine *Borella* and *Hellwarth*, the Office Action also improperly relies on nonanalogous art (*Hellwarth*) in making rejections under 35 U.S.C. §103(a). To rely on a reference as a basis of rejection, the reference must be analogous. MPEP 2141.01(a). To be analogous art, a reference must be "reasonably pertinent to the particular problem with which the inventor was concerned." *Id.* A reference is "reasonably pertinent" if it "logically would have commended itself to an inventor's attention when considering his problem" because of the matter with which it deals. *Id.*

*Hellwarth* is directed generally to a charge and collect-call billing system for a Public Switched Telephone Network (PSTN). See *Hellwarth* at Abstract; Figs. 1-3. *Hellwarth* describes repeating a credit card account number to prevent a public port of a telephone company

from timing out for account number validation. *See Hellwarth* at Col. 11, ll. 42-46. *Hellwarth* also describes a watchdog timer 194 provided to ensure that a microprocessor 200 does not stop or malfunction when running programs. *See Hellwarth* at Col. 18, ll. 29-31; Col. 19, ll. 3-15. Applicant's claimed embodiments are generally directed to enhanced Internet telephony in view of the Network Address Translation (NAT) typically implemented by a router. *See* Applicant's Specification at pages 4-6. For example, Claim 9 is directed to a method for providing enhanced Internet telephony including, *inter alia*, preventing a port from timing out by repeatedly sending subsequent messages from a destination over the Internet to an intermediate point.

It is respectfully submitted that neither the account number validation teachings nor the conventional watchdog timer for a microprocessor are reasonably pertinent to Applicant's claimed embodiments related to enhanced Internet telephony. Specifically, *Hellwarth's* teachings would not have commended itself to the attention of an inventor implementing enhanced Internet telephony in view of port management issues caused by Network Address Translation (NAT). Thus, *Hellwarth* is nonanalogous art. Reliance on this nonanalogous art further demonstrates that there is no suggestion or motivation to combine *Borella* and *Hellwarth*.

Accordingly, as the Office Action provides no motivation to combine *Borella* with the nonanalogous art reference *Hellwarth*, withdrawal of the obviousness rejections based on *Borella* and *Hellwarth* is respectfully requested.

### ***Combination Does Not Teach or Suggest All Recited Features***

Aside from the lack of motivation to combine *Borella* and *Hellwarth*, the combination also fails to teach or suggest all features recited as required to establish a *prima facie* case of obviousness. MPEP 2143.03.

The Office Action appears to again assert that *Borella*'s first, second, and third registration messages teach Applicant's claimed "repeatedly sending subsequent messages from the destination," where the Office Action applies *Borella*'s "callee" as teaching Applicant's "destination." However, as described in the previous Response filed March 14, 2007, *Borella* explicitly teaches that the first, second, and third registration messages are not sent from the callee/destination. Instead, in cascading fashion, the first registration message is sent from the first telephony interface 22 to the first router 18, the second registration message is sent from the first router 18 to the first gatekeeper 30, and the third registration message is sent from the first gatekeeper 30 to the server 34, thereby forwarding the caller station number and private caller address from the first telephony interface 22 to the server 34. *Borella* at Col. 7, ¶¶. 23-49; Fig. 2. None of the first, second, or third registration messages of *Borella* is sent from the callee. Thus, *Borella* does not teach or suggest repeatedly sending messages from the callee/destination.

*Hellwarth* also fails to fairly teach or suggest the features relied upon by the Office Action at page 3. In particular, *Hellwarth* describes charge and collect-call functions of a public telephone arranged automatically by a microcomputer system connected between a phone terminal and the local loop of the PSTN. See *Hellwarth* at Abstract. *Hellwarth* describes that an account number is repeated simultaneously by a computer 30 to a public access port of a telephone company to prevent the port from timing out. *Hellwarth* at Col. 11, ¶¶. 41-50. The Office Action at page 3 appears to assert that *Hellwarth* teaches Applicant's "preventing a port from timing out by repeatedly sending subsequent messages from the destination over the Internet" or that "the current time out period restarts upon arrival at the intermediate point of a message" (recited, for example, in Applicant's Claim 9).

However, the credit card account number of *Hellwarth* is not sent from the “callee/destination” over the Internet. Instead, the account number is entered by the calling customer over a local exchange (LEX) switch 50 or private branch exchange (PBX) 52. Thus, the interpretation of the account number as a “message” required to apply *Hellwarth* is contrary to the Office Action’s own application of the primary reference *Borella*. Further, the watchdog timer 194 is provided to operate with the microprocessor 200 and does not reset a time out period related to *Hellwarth*’s public ports. See *Hellwarth* at Col. 18, ¶¶. 29-31. Thus, *Hellwarth* fails to teach or suggest features related to messages or a time out period recited in Applicant’s claims.

Lastly, the Office Action fails to address features recited in independent claims other than Claim 9. For example, Claim 10 recites that “the current time out period restarts upon arrival at the intermediate point of a reply from the source.” As such, it is respectfully submitted that at least Claims 10, 17, 25, and all Claims depending therefrom, were improperly rejected. Accordingly, a full and proper examination of these claims on their merits is respectfully requested.

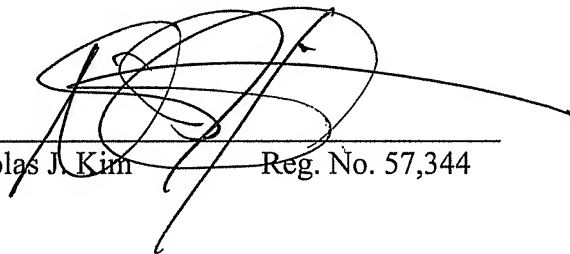
In view of the reasons discussed above, withdrawal of the obviousness rejections of independent Claims 9-10, 16-17, and 24-25 is respectfully requested.

It is also submitted that the remaining dependent claims are each patentable at least by virtue of their dependence without need to rely upon the further patentable limitations contained therein. As the outstanding Office Action appears to rely on at least the combination of *Borella* and *Hellwarth* to teach the features recited in the independent Claims, it is respectfully submitted that the remaining rejections relying on additional secondary references *Yan et al.* (U.S. Patent Pub. No. 2005/0018651) and *Harris et al.* (U.S. Patent Pub. No. 2003/0212795) are rendered moot as these references do not appear to be asserted to teach at least “preventing a port from

timing-out by repeatedly sending subsequent messages via destination over Internet and timeout period restarts upon arrival at intermediate point of a message from the destination.” *See* Office Action at page 3. Accordingly, withdrawal of all obviousness rejections is respectfully solicited.

For at least the reasons discussed above, Applicant respectfully submits that the present application is in condition for formal allowance. In view of the above remarks, an early and favorable reconsideration of this application is respectfully requested.

Respectfully submitted,



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